

**CITY OF MIDDLETOWN  
PLANNING BOARD  
MINUTES**

**February 1, 2017**

A meeting of the Planning Board was held in the Common Council Chambers, City Hall, 16 James Street, Middletown, New York on February 1, 2017 at 7:00 P.M., Mr. Anthony Capozella presiding.

Members Present: Anthony Capozella, Dan Higbie, Paul Thorn, Steven Sisco, Nicole Hewson, John Naumchik.

Members Absent: Laurence Risdal.

Other Attendees: Alex Smith, Assistant Corporation Counsel, Walter Welch, Building Inspector, Dave Ramkissoon, Code Enforcement Officer.

The Pledge of Allegiance was said.

On motion of Mr. Higbie and seconded by Ms. Hewson to appoint Mr. Capozella the temporary chairman for the February 1, 2017 Planning Board meeting.

Roll Call Ayes: Dan Higbie, Paul Thorn, Steven Sisco, Nicole Hewson, Anthony Capozella, John Naumchik.

Mr. Capozella: Also, I have to make the announcement that typically if this is your first trip to the Planning Board we treat it as a preliminary hearing. This Board may or may not act on your application this evening. We'll see that as we go through the evidence tonight and we may or may not vote, all right?

On motion of Ms. Nicole Hewson and seconded by Mr. Paul Thorn to approve the minutes of January 4, 2017 as submitted.

Roll Call Ayes: Dan Higbie, Paul Thorn, Steven Sisco, Nicole Hewson, Anthony Capozella, John Naumchik.

**AA Deli Grocery and Fresh Juices House Corp.  
154 Wickham Avenue  
Deli and grocery**

Mr. Capozella: Please step forward sir.

Mr. Smith: Why don't I start because this is the case we had a situation with the mailings last time. You didn't have the actual proof from the Post Office and I think I can recommend to the Board that this be allowed to be heard because this gentleman went back to the Post Office; they remembered him. Obviously they couldn't give him the contemporaneous stamp but they in effect retrospectively stamped it. Also, we got proof that actually two or three people... envelopes were sent to them on the correct date, the date that he said he sent them, they were returned to him as undeliverable and last but not least the City department got served on the correct date with the correct notice probably because we own property somewhere down there. So it's up to the Board but it is my recommendation that you hear him on the merits and I believe there was a proper service.

Mr. Capozella: Based on what our counsel has stated I have no issue with it. I don't know if any Board members would like to have a say in the issue. If that's the case then we accept his mailings and we proceed. A brief description, sir, or what you are trying to do with the property.

Mr. Alshojaa: What I try to do?

Mr. Capozella: Pardon me?

Mr. Alshojaa: I don't understand.

Mr. Smith: Didn't you have somebody here last time helping you with the language?

Mr. Alshojaa: No.

Mr. Capozella: Just... what are you going to do with the property?

Mr. Alshojaa: I'm going to do deli/grocery. Cold cuts, cigarettes, soda, coffee, like that because you know I can't do hot food so I'm gonna do cold sandwich.

Mr. Capozella: Ok. Martina you have to remind me, do we have... did we open a public hearing last time?

Mr. Smith: Probably not.

Mr. Capozella: We probably didn't do anything because we didn't have the mailings, correct?

Clerk: No.

Mr. Capozella: Ok.

Mr. Smith: Let me ask you a question. Is there going to be any... Do you want to do cooking there?

Mr. Alshojaa: I want to cook, yes.

Mr. Smith: That's a problem.

Mr. Alshojaa: No, I want to cook but if you say I can't cook, I can't cook.

Mr. Smith: See, restaurants are not permitted in that zone. Delis... stores are but not restaurants so...

Mr. Alshojaa: No, not restaurant that's a store.

Mr. Smith: Well, but cooking makes it become a restaurant so you can't cook. I believe Mr. Welch is...

Mr. Welch: Anything.

Mr. Smith: Anything, yes.

Mr. Alshojaa: Ok.

Mr. Smith: Because you know the Planning Board has no way of saying ok you cook this but you can't cook that. You can't cook anything in that zone because restaurants are not allowed and that makes it a restaurant when you are cooking, ok?

Mr. Alshojaa: Ok.

*Mr. Capozella opened public hearing.*

Mr. Capozella: Anyone from the public that wants to come forward and has any

opinion on this applicant, please step forward.

*No one came forward.*

Mr. Capozella: I think at this time we did get a letter from a gentleman, Michael W. Schloemer, in opposition of the application. Are you here this evening, sir? No. Do I have to read this for the record?

Mr. Smith: You ought to.

Mr. Capozella: This is addressed to the Planning Boar of the City of Middletown. This is a letter of opposition to application for 154 Wickham Avenue. "Dear Sir/Madam: I am writing to voice my opposition to the proposed deli/grocery/convenience store planned for 154 Wickham Avenue here in Middletown. I own and reside at 9 Albert Street and have lived here for almost 20 years. There are several reasons as to why this store would be detrimental to our community. We already have a convenience store just past the railroad tracks on Wickham Avenue, as well as one inside the Citgo station right across the street from 154 Wickham. There is also one on Albert Street, Lupita's Deli. I believe there is also a grocery store on the corner of Prince and Cottage. Please do not make the same mistake Newburgh has made by allowing a store on every corner. The element some of these "stores" attracts is not desirable at all to say the least. All one has to do is drive past the aforementioned deli on Wickham at any time for a nice view of all the people loitering in front of the place. Parking is also a major problem. There are multiple businesses near 154 Wickham and not nearly enough parking to accommodate all of them now. I can't even park on my own street because people frequenting the two barber shops, laundromat, Ruben's Deli, Little Cesar's and dentist's office have nowhere to park and spill over onto my street. Add another business and it will be worse. I cannot think of any positives this plan would bring, just negatives. Sincerely, Michael W. Schloemer, 9 Albert Street, Middletown, New York.

Mr. Smith: And I have to say that that's the kind of evidence the Courts have said repeatedly for a number of reasons Planning Boards cannot consider.

Mr. Capozella: Well, that was for the record. Anyone else form the public would like to speak? Please step forward, madam. Just step to the side a moment, sir. We give the public a chance to address...

Mr. Elsibai: Good afternoon.

Mrs. Elsibai: Good evening.

Mr. Capozella: Please state your name and address.

Mr. Elsibai: My name Bob Elsibai and my wife Janet Elsibai. We are here for same thing like what you say about...

Mrs. Elsibai: We own 132 Wickham Avenue, Maria's Deli/Grocery.

Mr. Elsibai: And too much store and no parking like what he said it's true and it's going to affect us because the business is going down and we tried to rent this location before and we came to you guys and you don't approve us for this location. That's why we rent another location and that's why we are here.

Mr. Smtih: The Planning Board can't get into economic competition issues.

Mr. Elsibai: Ok, I know this, I know. Each person take whatever they need to take, whatever God give him but I came before and I tried to rent this location and I tell you before I do any renovation I didn't put one nail in the store and I spoke to Mr. Walter Welch and he said me no, you can't because the way, the reason why you gonna open you can't open this kind of convenient store because of parking lot, because two barber shops, because Ruben's Deli, all this no parking, we can't operate there.

Mr. Smith: Well, there were other reasons, isn't that correct, Walter? It was under an older code.

Mr. Welch: Well, the Code book that I had said it could be a bakery only.

Mr. Smith: Ok.

Mr. Welch: It was then amended and now they can have retail.

Mr. Smith: He was looking at the wrong code. He was looking at the old code.

Ms. Hewson: Do you remember when you came last year? I remember you.

Mr. Elsibai: Yes, I came for my another store, yes.

Mr. Welch: They have a legitimate business at 132. He got a Planning Board

approval and he came back again so he could have a hood put in and he got approval for that also.

Ms. Hewson: That's right. I just remembered you.

Mr. Elsibai: Yes, thank you.

Mr. Welch: I spent a lot of time there.

Mr. Elsibai: Yes, you always help me, I appreciate everything.

Mrs. Elsibai: I mean the reason why we are here also because we have heard that it's supposed to be opened up... maybe I'm wrong but at 154 Wickham Avenue is the same exact establishment that we wanted to open which was a deli/convenience store that you know according to the zone that was not allowed.

Mr. Smith: But it is allowed in that zone.

Mrs. Elsibai: Now it's allowed?

Mr. Smith: Yes, yes, that's what I was saying.

Mr. Elsibai: Ok.

Mr. Naumchik: I thought it was the cooking issue.

Mr. Elsibai: No, we not gonna cook, never cook.

Mr. Naumchik: I thought it was the cooking issue.

Mr. Smith: But it's certainly allowed in that zone, I checked it myself.

Mr. Elsibai: Ok.

Mr. Capozella: The code has been amended so that it is now proper to have that use.

Mr. Elsibai: Ok, thank you.

Mr. Capozella: Is there anyone else from the public who wish to step forward? *(No*

*one came forward*). Anyone from the Board have any comments?

Mr. Higbie: What would your hours of operation be if you ... what are your hours?

Mr. Alshojaa: What is that?

Mr. Higbie: When are you going to open and close? What are your hours gonna be?

Mr. Alshojaa: I'm gonna open at 6 in the morning to 12 at night.

Mr. Capozella: Would that be Monday through Sunday?

Mr. Alshojaa: Seven days a week.

Mr. Capozella: Seven days a week.

Ms. Hewson: Will you be serving... not serving but selling alcoholic beverages?

Mr. Alshojaa: I try bring alcohol but...

Ms. Hewson: You'll apply for the liquor license?

Mr. Alshojaa: I want to start first, if the business is ok I'll bring alcohol.

Ms. Hewson: So you are not asking for alcohol on this?

Mr. Alshojaa: No, no.

Mr. Capozella: Not on this application.

Ms. Hewson: Right.

Mr. Smith: Can't it's not allowed in this zone.

Ms. Hewson: Oh, that's right.

Mr. Sisco: Were you the person here last month? Are you the same one?

Mr. Alshojaa: Yes.

Mr. Sisco: Ok.

Mr. Higbie: So you heard what he said that alcohol will not be allowed in that zone, no alcohol.

Mr. Smith: Well, he can't serve it. He might be allowed to sell beer.

Ms. Hewson: Well that's what I meant.

Mr. Smith: I think he said he might seek that sort of license. That's all he could do, he couldn't serve.

Mr. Higbie: Oh, ok.

Ms. Hewson: Right, right.

Mr. Alshojaa: Yes, only beer.

Mr. Smith: Hum?

Mr. Alshojaa: Alcohol only beer.

Mr. Smith: Only beer.

Mr. Naumchik: And we will have to waive parking, correct?

Mr. Capozella: Oh yes, we will have to waive parking, we have to establish that there's no cooking on premises and the hours of operation we have to mention 6AM to 12AM, Monday through Sunday – that will be in the resolution. Anybody else had any other questions?

Mr. Higbie: So you are going to be open till midnight seven days a week?

Mr. Alshojaa: Yes.

Mr. Capozella: Is there any time restriction in that area, Walt?

Mr. Welch: Not that I'm aware of.

Mr. Smith: Does DPW have any issues at all, Walter?

Mr. Welch: I wish we had Adam McCarey, the fire inspector here, so he could reiterate that there's no cooking, not even a hot plate.

Mr. Smith: Well, it's going to be in the resolution – no cooking.

Mr. Capozella: And also as we always do, DPW and Middletown Fire Department inspection. Anyone else from the Board?

*No one came forward. The public hearing was closed.*

On motion of Mr. Thorn and seconded by Mr. Naumchik that the Middletown Planning Board hereby approves the application of AA Deli Grocery and Fresh Juices House Corp. for a special use permit and site plan approval in order to have a deli and grocery located at 154 Wickham Avenue, Middletown, New York. Hours of operation are 6AM to 12AM Monday through Sunday. There will be no cooking on the premises whatsoever. The Planning Board waives parking requirements. This approval is conditioned on the approval of the Department of Public Works and Fire Department.

Mr. Welch: Should there be a stipulation for selling alcohol? Would that have to be in the resolution also that in the future he'd like to sell beer or in the retail store it doesn't matter at all?

Mr. Smith: I think in the retail it doesn't matter.

Mr. Capozella: He has to go through the liquor Board.

Mr. Smith: He needs a liquor license, yes.

Mr. Naumchik: He goes to the SLA to get his license.

Mr. Capozella: Right, correct, we don't control that.

Roll Call Ayes: Paul Thorn, Steven Sisco, Anthony Capozella, John Naumchik, Nicole Hewson.

Noes: Dan Higbie.

Mr. Smith: That means you are approved.

Mr. Capozella: You are approved. You have to see Mr. Welch for any permits or anything that's necessary to start work on your store.

Mr. Welch: Do you understand that?

Mr. Alshojaa: Huh?

Mr. Welch: You can't do anything till you come see me and the Fire Inspector. Any work in the building whatsoever till meeting with me.

Mr. Alshojaa: No, I do just the floor.

Mr. Welch: You do the floor, that's it but don't move anything into the building, no coolers, nothing.

Mr. Alshojaa: No, no nothing. I'm not doing nothing.

Mr. Welch: Ok, fine. Thank you.

**Gen Enterprizes Inc.  
44-54 Byron Avenue  
92-space parking lot**

*Handed in mailing.*

Mr. Nordlund: Hello, how are you?

Mr. Capozella: How are you, sir? State your name please.

Mr. Nordlund: Eric Nordlund.

Mr. Capozella: And I think you just handed mailings in, is that correct, sir?

Mr. Nordlund: Yes.

Mr. Capozella: Thank you. Can you sir, please describe what you are here for today?

Mr. Nordlund: We currently operate auto repair business at 35 Dolson Avenue which is 1<sup>st</sup> Class Alignment and Repair. There was a little confusion on the

parking space and amount of parking spots on the original approval for site plan so I'm here just trying to get approval for the actual site plan on the ... the lot behind the building is actually a separate address so we figured the best way is to get the site plan approval for that address for parking space for 35 Dolson which has four tenants in it including myself.

Mr. Smith: Yes, what this gentleman is referring to is we brought charges in the City Court. We have an enforcement project going on with various auto dealerships. Many of them either don't have or are not complying with site plans so we suggested we would hold off the court proceedings until there was another application to the Planning Board so it will be straighten out exactly where he's going to park the cars and there's a site plan that everybody can live with. Just describe, because it's confusing a little bit, you control how many different parcels of land there? Tax parcels, I mean.

Mr. Nordlund: All together there is ... I think it's four parcels total or three. The building sits on two and then the parking lot is one.

Mr. Smith: All right. And just so we get it all straight, you have a site plan now for which parcels?

Mr. Nordlund: 35-37 Dolson Avenue.

Mr. Smith: And that's the one with the building on them?

Mr. Nordlund: Correct.

Mr. Smith: And you are looking for a site plan is for the lot that's just a parking lot.

Mr. Nordlund: Correct.

Mr. Smith: And that address is Byron Avenue.

Mr. Nordlund: Technical, right. Which is like paper street.

Mr. Naumchik: I'm sorry. Alex, I noticed too, on the Agenda it says 44-45 Byron Avenue but on the application it says 44-54. Is that right, is that wrong?

Mr. Nordlund: 44 I might have wrote that wrong.

Mr. Naumchik: What is the correct address?

Clerk: Fifty four.

Mr. Nordlund: Fifty four.

Mr. Naumchik: It's 44-54.

Mr. Smith: I asked Dave Ramkissoon to be here tonight because he is the code enforcement officer involved in this. Do you mind if Dave gives us his thoughts?

Mr. Nordlund: No.

Mr. Smith: Dave, do you want to come up?

Naumchik: First a question – why so many spots? 92?

Mr. Smith: Well, ok why don't you go ahead and answer that?

Mr. Nordlund: The only thing is that's what's there now. So it's not that I need 92 spots, we generally have maybe 40 something cars on average depending between the businesses but that's what's there currently. If you look at the site plan it's just Google Earth picture of what's there currently so I just counted the spots according to the City of Middletown recommendation on the sizes.

Mr. Smith: And those cars that you are planning on having there are they customers? Cars to be repaired? You tell us.

Mr. Nordlund: Three quarters of the cars are customers which are being repaired, the rest would be employees or tenants which have their employees as well.

Mr. Smith: Dave?

Mr. Ramkissoon: I was sent over there by the Commissioner to take a look at the property and reviewed the initial site plan that was granted for the business. The original site plan called out for 25 spots and right now we ... it's approximately what 92 vehicles?

Mr. Nordlund: No it's not 92 cars.

Mr. Ramkisson: But they are looking for 92 spots so now we are looking at more than tripling that and we are going to need some demarcation as far as those spots are concerned.

Mr. Smith: Demarcation not on the site plan, you mean demarcation out there on the field?

Mr. Ramkisson: Yes, where these things gonna be, you know, who they are gonna be.

Mr. Smith: Anything else?

Mr. Ramkisson: I mean I have pictures of what we observed while we were there. I'm not sure if you want me to present that.

Mr. Smith: Sure, why don't you pass them around the Planning Board just to get an idea of what...

Mr. Ramkisson: Yes, what exactly we are dealing with. And you know Mr. Nordlund he came in, he filled out his application and he is trying to do the right thing so I just want to make sure everybody is on the same page because there was definitely some difference of opinion as far as what was approved and what wasn't approved so I want to make sure whether it's us, the City, and the business is on the same page with this.

Mr. Naumchik: Is this lot paved? Is it... I understand it's gravel, it's not paved.

Mr. Nordlund: It's gravel. Item 4, correct.

Mr. Naumchik: So how are you going to mark the spots off?

Mr. Nordlund: I don't see how we can mark spots. It's not the public parking lot so people don't just ...

Mr. Smith: So what's the ingress and egress?

Mr. Nordlund: It's Bennett I believe. Bennett Street which is...

Mr. Smith: But you just don't allow people to park there.

Mr. Nordlund: Correct, it's private. It's our parking.

Mr. Smith: Is it marked like that?

Mr. Nordlund: As private?

Mr. Smith: Yes.

Mr. Nordlund: I mean Bennett Street is a dead end road that nobody goes down there so if you know where Hershey place is, it's not like a traffic road. Most people think it's actually our driveway.

Mr. Smith: What do you think about the fence? Is there any need for having a fence there?

Mr. Nordlund: We considered fencing half the lot just for security reasons. I know I would have to get approval for that. It's also quite an endeavor expense-wise. The same as paving would be quite an endeavor expense-wise. It is gravel and we do bring in fresh item 4 throughout the year to keep it maintained.

Mr. Smith: I mean the cars you are repairing are they... what kind of state are they in?

Mr. Nordlund: I mean some may need engines, some may need some work, you know. When the code enforcement came we had some extra cars. We cleaned out majority. I don't know if any pictures are current pictures but currently there's maybe 20 something cars on the lot. There's not a lot on there.

Mr. Naumchik: I saw a dump truck or a big truck there.

Mr. Nordlund: We had an issue with A1 Paving. We were doing some work, he was actually maintaining the lot for us, then he had some of his trucks there and we were told when I met with him that that wasn't allowed so we had to get him to clean that out.

Ms. Hewson: So those aren't your trucks? Those were just there doing work on your property?

Mr. Nordlund: Correct but he had them parked there a little bit longer to be fair to Dave and you know to be honest.

Mr. Smith: Now you are changing the use you are running a parking lot.

Mr. Nordlund: Right, right. But he wasn't paying, he wasn't parking in there, I wasn't storing in there. He seal coated the front of the building but I had to tell him to get the trucks out of there.

Mr. Thorn: What's on the record as far as ... do we have the records of what was approved? How many lots, I understand you know there may be room for 92 spaces but what does the actual approval say?

Mr. Smith: Dave, you have that?

Mr. Capozella: Per the inspector it was ... the original approval was 25spots.

Mr. Nordlund: On our original approval on the Planning Board we never specified number of spots when we had our first site plan I have marking of parking behind the building and with the minutes that we had all it stated was parking was behind the building. They granted 20 something spots marked there but it was just an allocation of parking and that's where the confusion that there was...

Mr. Smith: Yes, I remember that dispute and what we are saying basically is the ... what Dave is saying is basically he counted up the number of slots on that drawing and he got to about 25 but there was no specific...

Mr. Capozella: So there is no formal number.

Mr. Smith: No, that's another reason why we wanted him to come back.

Mr. Naumchik: That's why he's here tonight.

Mr. Smith: Correct.

Mr. Higbie: Also, like in the picture it shows there's almost like a grass island.

Mr. Nordlund: In so many spots you get a little bit of grass...

Mr. Higbie: No, it looks like it's... the way you have it here in your picture it looks like it's a big parking lot but in here it almost looks like there's paths and there is an island in between.

Mr. Nordlund: Where the main runways are they are going down where the parking areas are but there is no grass there; it's all item 4. A little bit of grass might pop through because it is gravel but we maintain that but where the parking areas are because they are not driven on and because everything is lined up.

Ms. Hewson: Are there any environmental concerns from either of inspectors?

Mr. Welch: Not that I have.

Ms. Hewson: Ok.

Mr. Smith: There was no charge involved in the City Court.

Mr. Thorn: Is there any potential... if a different use comes down the road for like for instance like an auto sale or something like that, that they could maintain that same number of lots on the space so we could...

Mr. Smith: Well it would be a different use. This is basically adjunct to the auto repair shop with no access to the public.

Mr. Sisco: I see several vehicles have no license plates. Are you selling cars there?

Mr. Nordlund: I don't sell any, I do a lot of work for local dealerships so they get the car, I fix it and they put it on their lot for sale.

Mr. Higbie: Alex, the City code is what, 9 by 18 the spots have to be?

Mr. Smith: Yes.

Mr. Nordlund: They are 9 by 18.

Mr. Higbie: And when you did this, this is all done by 9 by 18?

Mr. Nordlund: Correct.

Mr. Higbie: Ok. Like you actually measured these all out?

Mr. Nordlund: Yes, yes, yes. I have one here that actually I did the math on but yes, they are all 9 by 18.

Mr. Smith: Can you live with anything less than 92? I mean it is an awful lot.

Mr. Nordlund: Yes, I mean in reality we don't have 92 cars there even at the most we never had 92 cars there; I don't need 92 spots, it's just that that's what's there. We do an average of easy 60-65 cars a week that I can have on a lot for couple of days so I never have necessarily that many as long as we stay on top of it but you know sometimes a car could be there for a month if somebody is having trouble getting finances together. Currently I'm doing four engine jobs right now so those turn around that's you know 2-3 days' worth of work each car that would be four cars on the lot; I only have 2-3 mechanics, 2 and a half so...

Mr. Smith: Does that look like a better number, John?

Mr. Naumchik: I was thinking more like 50 to 60.

Mr. Higbie: Well, I was looking at... if you look at his drawing, if you would take away the ones that are in the wooded area and you just park in the middle; it would be like 25 spots less.

Mr. Nordlund: Right, to the right side or to the back side?

Mr. Higbie: Well, both. Take that away and all you have, all you can park is 1, 2, 3 rows and not park in the woods and that would be like 25 spots less. It would be 92 minus 25 which is 67.

Mr. Naumchik: I would say 60.

Mr. Capozella: One comment I would like to make you have a tremendous amount of unlicensed vehicles on this lot.

Mr. Nordlund: Yes.

Mr. Capozella: Just sitting there.

Mr. Nordlund: Yes. I would say 50% of my business is wholesale.

Mr. Capozella: There are no license plates on these, no registration, no nothing so...

Mr. Nordlund: Correct. They are unsold vehicles.

Mr. Capozella: You are kind of lucky this lot is hidden because this is kind of a mess. I mean what do you do with all these unlicensed vehicles? Are they supposed to be on the lot like that?

Mr. Naumchik: So, you said you are not selling them so...

Mr. Nordlund: I do not; no, no I do not sell the vehicles.

Mr. Naumchik: Then you just... you are storing them?

Mr. Nordlund: No, what happens is let's say if you were a used car dealer you go to auction and buy a vehicle it needs to be pre-delivered, it has to be fit to be put on their lot to sell. I get the car, I put it on my lift, I do the repairs on the vehicle then they take it. I don't store it; it just comes for me to fix. They can't register – they are not sold yet and they can't sell an unfixed vehicle. The vehicle has to be fit to sell so...

Mr. Capozella: Well, there's like 20-30 unlicensed vehicles on this lot. Are they ready to go out for sale?

Mr. Nordlund: No.

Mr. Thorn: That's exactly the problem we were having with the other lots throughout the City is we didn't want cars being parked especially on unpaved lots where they are not in the condition to be sold because they require fixes, they could be leaking fluids, then there's an environmental problem.

Mr. Capozella: There's trailers here, there's snow plows here, it's all disbursed within the lot, there is no order to where they might be if you going to need these things. I'm not sure what the code is but this thing would need to be re-evaluated, re-inspected because you have a lot of cars there that are parked I mean if I brought there and keep an eye on one car you want to see how long it's going to sit there?

Mr. Nordlund: Like I said it depends on a car. If you again as a used car dealer they are not registered so ... and they have to be fixed, they can not be fixed so I don't know how that works. We also have some people that maybe will have a certain situation where they are fixing a car and they might cancel the insurance on the car for 30 days or something to save the insurance to get the car repaired you know. We do all the work for the City of Middletown residence and some people are struggling unfortunately so we do the best we can to help them. But majority of

these cars and I wouldn't say there's over 20 but we do work for multiple used car dealers not just one; multiple large car dealers so if they can drop off 2 cars to me to be fixed you know within a few days I get them fixed in between the other work. Like I said we do about 50-60 cars easy a week.

Mr. Sisco: Are these local used car dealers?

Mr. Nordlund: Yes.

Mr. Sisco: In the Middletown area?

Mr. Nordlund: Yes, yes. Frank Siena's, Affordable Imports, Hudson Valley Imports, Cummings Auto Sales, Mike's Auto Repair.

Mr. Thorn: So we are basically moving the problems that we had on these other lots into this location.

Mr. Nordlund: But they don't stay here, I fix them.

Mr. Smith: The distinction is they are not being sold here. I think that's the one distinction.

Mr. Thorn: But can we say in one part of the City that we can't have cars that are parked out in the open in an unsellable condition because of the environmental concerns and other things like that to say it's ok here. I don't see how that's ok.

Mr. Smith: Well, I think the difference is there is no selling going on here, it's just repair.

Mr. Thorn: But the risk is still the same. Just because you are selling it or not, the concern with cars leaking fluids into the ground, things ... how it's used and how the property is used, the risk is still the same.

Mr. Smith: And the esthetics are the same.

Mr. Thorn: Certainly.

Mr. Smith: As Tony said, this luckily, this is sort of ... you can't see this.

Mr. Thorn: Yes. No if it was on the side of the road it would be worse.

Mr. Nordlund: If I can just touch on that I understand that that's definitely the rules for used car lots and I think that makes perfect sense because if they are trying to sell a car one - it's good for their business but two- they are front line, front row but where do they go to get their car to the standards that they need to have to make their car sellable. You know what I'm saying? I'm not trying to argue that fact but if they are trying to do the right thing and bring it to the repair shop to do the right thing I'm one of those repair shops that do the right thing. It's not that they are moving them and sitting them there so that they can just sit you know and I wouldn't allow it just to sit unless it's a circumstance of maybe a struggling mother or whatever problem not just a used car lot.

Mr. Smith: How do you respond to the concern about leaking fluid? I mean there's a lot of cars so there could be fluids ...

Mr. Nordlund: I would say if it's something that's just pouring fluid out of it it's not going to be sitting out in the lot. I'm not going to let that happen. But I mean, you know unfortunately if you go to parking lot across the street there's cars leaking fluid; that's what keeps me in the business you know. That's gonna be whether the car has plates on it or not.

Mrs. Hewson: You are not selling any used car parts on the internet or anything like that?

Mr. Nordlund: No, I don't sell parts, I don't... I might have a couple of cars possibly if somebody was to try to get their car going and I'm pulling a motor out of the car for them that would be for auto repair. I don't take cars apart, I don't do that, I don't have time for that.

Mr. Sisco: Does every car that come in, is that for repair?

Mr. Nordlund: Correct, every single car.

Mr. Sisco: There is none there just for storage?

Mr. Nordlund: None there just for storage except for maybe one car, my own personal. But there are no cars there for storage at all.

Mr. Sisco: Because it looks like a lot of vehicles that are just there. How many men you have working for you?

Mr. Nordlund: Six people in my business alone and then we have ... one of the other tenant has four and the other tenant has three and the other tenant has at least two or three so that's how it adds up. It's probably 15 cars on average just employees.

Mr. Smith: We have our engineer, Planning Board engineer review for environmental concerns you know in terms of leaking fluids, maybe we should have Gef Chumard just to look at this.

Mr. Thorn: Even if it's just in a sense of what's common practice for repair buildings, I don't know if there's any particular...

Mr. Smith: Well, Mr. Chumard looks at those things and determines you know the surface, what's gonna happen to fluids wherever they go if they do leak, that sort of thing; I mean that's what the engineer is for. Maybe we'll have him take a look.

Mr. Naumchik: I would say he's gonna recommend paving, drainage and the whole thing.

Mr. Capozella: He may not depending upon if the applicant removes most of the unlicensed vehicles or the vehicles that aren't sellable and get them out of there it becomes a tight lot in other words he maintains the cars the way they are supposed to be maintained so he won't have leakage, he won't have run off. He will have sellable cars-that's the term that we normally use. The only thing that can stay in this lot is a sellable car.

Mr. Nordlund: I don't sell cars.

Mr. Capozella: We did that for a matter of condition. In other words the car is in good condition, ready to be moved.

Mr. Nordlund: But there is going to be no cars that are at a repair shop in good condition otherwise it wouldn't be at a repair shop. You know what I'm saying? There's something wrong with the car.

Mr. Capozella: That's why we... they got to move them, move them on, get them out of there.

Mr. Nordlund: Then who...

Mr. Thorn: They are coming there because they are not ...

Mr. Smith: Yes, we understand that it's just in some instances we require ... we restricted the number of vehicles that are going to be repaired because there is not as much space as you have. I mean you present a different problem because you have a lot of space and it's not readily accessible to the public so it does make it a little bit different but it's still an awful lot of vehicles.

Mr. Capozella: And what happens those vehicles sit there longer than we think they should be sitting there.

Mr. Nordlund: Like I said I don't need 90 something spots. It's just the matter of what was there, what's open to spots you know it's just what's there. I'm not looking... I'm just looking to run a business. If we take out unregistered vehicles, that's 50% of my business. I close up and go back to Pennsylvania. It's not that I'm trying... I have two little girls I just want to put food on table you know? I'm not doing anything wrong.

Mr. Smith: How many employees do you have?

Mr. Nordlund: Six total including myself. You know if it's a matter of ... you say I'm only allowed this many spots then that's what it is. Like I said I have 15, on average 15 cars as employees in the whole building and I do 60 something cars a week and that just pays my bills, paycheck by paycheck. So if you could take that into consideration and say this is the number and I do the best I can to make it simple and continue you know we've been in that building for 5 years and haven't had any issues, you haven't heard of me. This is the first that you see me and it's just you know like I said I'm just trying to make it happen.

*Mr. Capozella opened the public hearing.*

Mrs. Nordlund: Hi, I'm his wife, I run the daily operations.

Mr. Capozella: Your name?

Mrs. Nordlund: First Class, Gladys Nordlund. I just wanted to point out that the pictures if you could find out when was the last picture you took.

Mr. Ramkisson: December 15<sup>th</sup>.

Mrs. Nordlund: Ok. So they don't depict the changes that happened discussed back and forth over the last 3 months that we were having discussions with him and I believe Boris which was the person previous to him. There's been immense changes since then, there's barely no cars on the lot. The process is the car comes in, I take the customer's complaint, we diagnose it. If I don't get approval they have 3 days to give me approval. After work is complete, depending on the process of that timeframe, if it's a one-day job or a three-day job they then have 3 days of free storage before I charge them storage for leaving a car on my lot. I implemented this because of the situation we were in. So this has been an ongoing battle that we have already implemented procedures to change at First Class Alignment and Repair. Unfortunately because we are nice, people were leaving their cars because they could not afford to pay their bills and we were letting them for a week and then it would turn into two weeks and then a month later how do I then say pick up your car or I'm going to charge you. Well, then they left their cars. I have 9 cars I had to spend \$725 to lien because of this process, because those people did not pay for the work done. They since been liened, they are now owned by First Class, we have gotten rid of them, I sent some to the Teplitz to scrap just to get rid of them because I couldn't do anything with them. So already lots have been implemented to do what they required and what you want. But what I do want to say is number one –those changes have already been implemented, number two-these pictures are not just ours, we have four tenants, all of them are very active businesses. This parking lot is behind a ginormous building plus two big buildings across the street. No one sees it unless they are going to do something in my backyard.

Mr. Smith: Well, wait a minute, are you saying there are other cars being parked there?

Mrs. Nordlund: No, what I'm saying is there's no active parking space back there unless you are coming to one of the businesses in that property.

Mr. Smith: But that's where you just start to confuse me. What other businesses are there besides auto repair?

Mrs. Nordlund: There's Herco across the street, there's independent living that used to be there before, those are two businesses across the street and then there are 4 tenants on my property.

Mr. Smith: Are you saying those businesses across the street are parking in this parking lot?

Mrs. Nordlund: No, what I'm saying is it's a private lot, now one sees this parking lot until they are going onto the premises for whatever purpose they need to.

Mr. Smith: Ok, but the cars you are asking the Board to approve are for your business and your business only.

Mrs. Nordlund: But the pictures that you are looking at don't depict just First Class. It is a parking lot shared between 4 tenants at 35-37 Dolson Avenue. They are accountable for their own independent approvals. So what I'm trying to say is that the pictures are our entire parking space but the conversation is only being had regarding First Class parking arrangement so if he comes back and takes a picture in 45 days I can still have 22 cars on the lot for the First Class, RC World can have 9, the Engine Shop can have 7 and then D&M Signs would have 12. So I just want to make sure that it's being noted that those 4 tenants have their own agreement with the City of Middletown based on when they came for their approvals. It is a shared parking lot with 4 tenants.

Mr. Smith: You just created a lot of confusion.

Mr. Nordlund: Let me clarify. It's not confusing. There are four tenants in the building and that's why I said where they all have their own employees there, that's why I said there is 15 cars total. I have about 6 employees, that's 6 cars, RC World has couple of employees, D&M Sign has couple of employees, that's why she is saying that we have bunch of cars there for all the tenants but they are not all First Class cars at the back of the building.

Mr. Smith: But those cars, tenant's cars are just the employees of the tenants or customers or something else?

Mr. Nordlund: D&M Signs might get one customer that comes in and out and RC World might get a couple of customers that come in and out which is in their site plan.

Mr. Smith: At the very least... well, see you are saying they have a site plan but I don't know if that's true or not. At the very least you ought to demark on your site plan what's gonna be your customers, where your cars are and where the tenants' cars are.

Mr. Nordlund: That's what I have ... I said for GEN Enterprises for the tenants of 35 Dolson Avenue.

Mr. Smith: I don't see that.

Mr. Nordlund: It's in my request for approval.

Ms. Hewson: Oh, it's on the second page.

Mr. Smith: But that's not marking on the site plan.

Mr. Naumchik: This Google Earth plan that's attached to this I think you need a better plan on the parking for all those businesses you just mentioned because it seems like this here is what... you park your car in this, right?

Mr. Nordlund: Yes, sense is if you are parked at Shoprite in Shoprite parking lot, it's a parking lot for all those businesses.

Mr. Smith: I understand that but what I'm saying is that on this plan where are your tenants customers parking, where are you parking, the Planning Board really ought to see that.

Mr. Naumchik: Yes.

Mr. Nordlund: We share the lot.

Mr. Thorn: It sounds like you don't say these spaces are for you and these spaces... it's just a lot and everybody is using it.

Mrs. Nordlund: And we have them in four lines.

Mr. Nordlund: Correct. Generally I keep out of courtesy I keep the front line open for them in the front out of courtesy but we share the lot. It's just a shared lot for us in the building.

Mr. Thorn: Then 92 spaces that you are talking are for all of the tenants?

Mr. Nordlund: Correct that's the whole parking lot.

Mr. Thorn: Ok but you were saying earlier that 60 or so you were talking about earlier that's what just you need or that's for everybody?

Mr. Nordlund: No, that's the whole lot.

Mrs. Nordlund: Right and that's where I'm concern that if you say 22 but you take a picture and there's 40 , it's not that I have 40 it's that we are expressing that lot.

Mr. Smith: That's why you are asking the Planning Board to approve certain number and you got to stick to that number and you cant's say well, but we've asked the Planning Board for 40 but our tenants have 15 so really we have 55 cars there. You understand what I'm saying?

Mr. Nordlund: No, no, our concern is that you are going to drop us down to 20 something spots and we are saying that 15 are just employees; we do an average of 60 cars, that's the whole building.

Mr. Smith: I understand that but their concern is that if they give you 60 you can't have 75.

Mrs. Nordlund: Understood.

Mr. Nordlund: No, no she is not saying 60 just for First Class that's why the application is for GEN Enterprises. We are just making sure that it's for GEN Enterprises the whole... not just for First Class.

Mrs. Nordlund: Right.

Mr. Nordlund: That's why the application is for GEN Enterprises. GEN Enterprises owns the building.

Mr. Capozella: I was there Sunday and you had 40 cars there in the lot at least and most of them are unlicensed.

Mr. Nordlund: That can't be.

Mr. Capozella: There was some equipment there too.

Mrs. Nordlund: That can't be mostly unlicensed.

Mr. Nordlund: That can't be. I wouldn't say mostly unlicensed but there is good amount that is unlicensed.

Mr. Capozella: Oh yes.

Mr. Nordlund: Like I said 50% of my business is wholesale you know. Now again, and Dave would also probably agree that we did clean it up a lot and I'm sure he would agree with that. We did.

Mr. Ramkisson: We've made some steps in the right direction and you guys finally got rid of that last paving truck?

Mrs. Nordlund: Yes, he took it today.

Mr. Ramkisson: Ok.

Mrs. Nordlund: Eric has been calling him and texting him every day.

Mr. Ramkisson: Yes, because that's been about what, 9 months now, right?

Mrs. Nordlund: Yes.

Mr. Nordlund: He has been asked... He said he was in the hospital.

Mr. Capozella: Ok, we are going to think about it just for a second. And in the meantime anybody else from the public who would like to comment on this application, please step forward.

Mr. Smith: Anything else, Dave?

Mr. Ramkisson: No. Now as far as what's going on here, is this something that is going to go before the Planning Board engineer prior to approval?

Mr. Smith: I don't know, it's up to the Planning Board.

Mr. Ramkisson: Because if there is going to be any paving required we will have to worry about storm water...

Mr. Smith: Oh absolutely, that's why I mentioned the engineer. I don't know what the engineer would think about this or what he would suggest. I don't know if the Planning Board wants to do that or not.

Mr. Thorn: I personally would like the engineer to weigh in on it. I think... I mean I'm looking at this figure of the space and he's right I think those three lines of parking look like a reasonable amount, it looks like it adds up to about 60 spaces

and it fits in the middle. I mean looking at the photos the worst of it looks like the stuff that's half way into the woods and it seems to me like a reasonable accommodation for everything but I'd like to know... my concern's not even so much the registered/unregistered, it's just from the environmental if gravel for these kinds of lots, it that's common practice then I'm fine with that if that's a normal thing for the business like this but I would like somebody maybe that's a little bit more experienced to weigh in on it.

Mr. Capozella: Question for Dave. What is the last time you've been there to inspect the property?

Mr. Ramkissoon: Last time I was there was December 15<sup>th</sup> because then we moved with our court action and we were in court and this is the next step.

Mr. Smith: It was adjourned so he can come to the Planning Board and that's why we are here.

Mr. Higbie: Right. And there hasn't been any complaints, there is nobody here for the public hearing.

Mr. Smith: I don't know if we've ever had a complaint. It's just that we decided...

Mr. Higbie: No, I know exactly... would you find that agreeable if we allowed you to have basically not have the end and you would just have the middle?

Mr. Nordlund: Absolutely.

Mr. Naumchik: Dan, how many spots?

Mr. Higbie: 67, I just counted them.

Mr. Naumchik; Yes, I did too.

Ms. Hewson: I like that idea.

Mr. Higbie: And let the woods grow a little bit more and you can get more of a separation or whatever between your neighbors and whatever and then there's a lot less hiding, you know people put things in where it will camouflage in and we can't do that, it will be out in the open, it will give you guys a better idea of you know what you have and...

Ms. Hewson: Is there a stipulation where we can say that one particular vehicle can't be there past the certain number of days?

Mr. Smith: How are going to enforce that?

Ms. Hewson: If it becomes a problem it could easily be I think enforced but I'm not an enforcement...

Mr. Nordlund: I can tell you for sure like my wife said, we did implement a stricter policy not because we want to put any more heartache on local people but because we...

Ms. Hewson: Right, right.

Mr. Nordlund: Right, but we are trying to fix it and again, we are just trying to make...

Mr. Higbie: The faster you get cars around the more you can take in and it's better for everybody.

Mr. Nordlund: So the middle lot is... the middle lot...

Mr. Higbie: You actually get paid from people...

Mr. Nordlund: I can... we can move on and it will be easy and...

Mr. Capozella: If we set the number of cars then the code enforcement people can go around and enforce that.

Ms. Hewson: That's true.

Mr. Capozella: So if it starts getting out of hand, say 75-80 cars, they can bring them up on violations.

Mr. Nordlund: Correct.

Mrs. Nordlund: I've implemented a way where now when they come I have them sign off that they will be charged for storage after 3 days. So I warned them ahead of time so now it's not the excuses or the ... you know I lost the leg, nothing, like I'm sorry it has to go, that's the requirement.

Mr. Nordlund: It gets them to get the car out of there.

Mrs. Nordlund: And it is easier that way so this has also taught us a huge lesson.

Mr. Capozella: So I did hear a number of 67 was that?

Mr. Higbie: Yes.

Mr. Capozella: I heard the number of 67.

Mr. Nordlund: Yes. That's fine.

Mr. Higbie: Ok.

Mr. Capozella: The applicant seems to be agreeable with that. The code enforcement will have to watch it.

Mr. Smith: Is there anything you can do to mark it out there? I mean, you know...

Mr. Nordlund: One thing that we were gonna do to make it nicer at the time we were gonna just maybe put some barrels up with some flags out or something just to... but generally because there is cars there the spots are very clear. Like I said even if you see on the picture, that's an unprompted picture so the parking is very clear, if there's something that you say I have to do, I can do. But it being item 4 it's not the easiest thing to mark; you can't paint lines you know but some barrels with some flags we were gonna do so that there's isles to it.

Mr. Higbie: And obviously for the first however long you gonna have to probably mark so people don't park where we are not allowing you to park.

Mrs. Nordlund: But we've also implemented a front to rear shuttle so now I have a guy who says, like I say you know John Smith is here, so he brings it to the front and John Smith leaves with it. So I also don't want customers in my backyard at all.

Mr. Nordlund: And when they drop their cars off, they drop them off in the front. It's just us that park in the back but absolutely I can block those lines also.

Mr. Higbie: I mean once everybody gets... once it starts over again they will probably...

Mr. Nordlund: Right, they'll know not to park.

Mr. Capozella: Put your plows on the edges so nobody parks there. All right, so the Board has mentioned a number of 67, the applicant seems to be agreeable with that number so we can put that into a resolution.

*The public hearing was closed.*

On motion of Mr. Higbie and seconded by Mrs. Hewson that the Middletown Planning Board hereby approves the application of GEN Enterprises, Inc. for a site plan approval in order to have a parking lot located at 44-54 Byron Avenue, Middletown, New York. The applicant will try to demark the aisles and rows as best as he possibly can based on the item 4 surface and he will have no more than 67 cars in this lot at any one time. This is with the approval of the Department of Public Works.

Roll Call Ayes: Dan Higbie, Paul Thorn, Steven Sisco, Anthony Capozella, Nicole Hewson, John Naumchik.

Mr. Capozella: Thank you sir.

Mr. Nordlund: Thank you very much.

**Elvis A. Uzuriaga**  
**an eating and drinking establishment**  
**416-422 North Street**

Mr. Capozella: Please step forward, sir. State your name one more time.

Mr. Uzuriaga: Elvis Uzuriaga.

Mr. Capozella: Thank you and please state what you want to do with the property.

Mr. Smith: You've got proof of your mailing?

*Handed in mailing.*

Mr. Capozella: Please describe what you want to do, sir.

Mr. Uzuriaga: Ok. I want to make a place to drink, a bar with the kitchen inside to

get appetizers for the customers.

Mr. Smith: What kind of liquor are you talking about? Beer and wine or hard liquor or everything?

Mr. Uzuriaga: Yes, everything.

Mr. Smith: Everything?

Mr. Uzuriaga: Yes.

Mr. Smith: Ok.

Mr. Thorn: Is this a bar or is it a restaurant? Or is there a distinction?

Mr. Smith: It's an eating and drinking establishment and it's allowed in that zone.

Mr. Thorn: No that's fine I just didn't know because it says restaurant but what he's describing is a bar but I don't know if that distinction matters or not.

Mr. Smith: No. It's eating and drinking. You just have to specify whether or not it has ... it's just eating and drinking, eating and drinking with the beer and wine, eating and drinking with a full liquor.

Mr. Thorn: Got it.

Mr. Smith: Sounds like he wants eating and drinking with a full liquor license. This is the old Globe Hotel, right?

Mr. Welch: Excuse me? CW Courtyard, yes.

Mr. Smith: So you gonna have a pizza place on one side and this on the other?

Mr. Welch: He's on the very end, correct.

Mr. Smith: So what part of the building is he occupying? What used to be the bar?

Mr. Welch: Left hand-side.

Mr. Smith: Left hand-side looking from the street?

Mr. Welch: Looking at the building from North Street.

Mr. Capozella: It's like a middle door right there.

Mr. Smith: Basically where the old bar was.

Mr. Welch: Hundred percent, yes.

Mr. Smith: Is the kitchen still up there?

Mr. Welch: That I don't know.

Mr. Smith: You'll have to take a look at that.

*Mr. Capozella opened public hearing.*

Mr. Sanchez: Israel Sanchez and Carolina Sanchez. We live at 405 North Street and we are just a little concerned with the eating and drinking. As you can tell since we purchased our home 5 years ago I've got the soy sauce company to knock all the trees down behind my house; I didn't come to that hearing so I missed that one so I lost that beautiful view, across from my house I have an abandoned home already, it hasn't been fixed. I have 20 cars in front of my lot so I'm losing all the trees. We are very concerned because we already have one Whispers Bar, one liquor store and it start to look very commercial to us and when we first came up here we bought the home because we had a beautiful back scenery and we were thinking we are going to have a beautiful setting but this time it looks so much commercial that we are starting to worry if we made the right decision to buy this home on North Street. So for us we are very concerned that it's starting to become very commercial and we lose sense of people and humanity you know like very close neighbors and everyone starts leaving and the other is what comes after the drinking late night, you know? Couple of weeks back or couple of months back I used to have people from a motel checking my mailboxes which forced me to install cameras so now I'm wondering if we are drinking and we are partying and we have one bar, the other bar, people colliding, security is very concerning for me. I don't want anyone coming into that abandoned building across the house from me, coming on to my property and whatever comes along with a bad night of drinking. So I'm very concerned about this. So I'm kind of like little disappointed because we are losing all these sceneries that we first got when we first got here we had and ... if you excuse me, I'm a little nervous, but you know I want to get back to having that good feeling of not having just an industrial neighborhood.

Mr. Smith: What do you suggest for that building? I mean historically it was a hotel, it was a bar, a restaurant with a banquet facility then it turned into a boarding house which I can tell you from years of litigation we had tremendous problems with.

Mr. Sanchez: Right, but I think that if it went back to a boarding house or if it went back to some sort of... we just had some homes burn down and I don't know how many of those people got place. It is a great opportunity to do something with that but I think it should be ... it shouldn't be another business.

Mr. Smith: Basically, they had to close the boarding house down it was such a problem.

Mr. Sanchez: Well, then maybe it needs another management, organization should really take a look at it. Sometimes businesses don't fail it's people that fail because of the management and I know that because I run couple of businesses so...but what I'm saying is I don't think it should be another bar. There's one bar, a liquor store, a bar, you know it's gonna create a problem I can foresee it. Sometimes at 2 in the morning I have to look out of my front window and I hear from the other bar in the middle of the street people fighting. So I can just imagine this one is going to be closer to me. My neighbors were not able to get here because they are working but I'm also going to speak on their behalf I mean I guess maybe I can't but they will be responding to this as well, we are very concerned about it. And if he wants to leave the drinking out by all means but I think too much alcohol with the liquor store, Whispers and him it's just too much. Then we got the parking issues, then we got... it's just... for me it's very concerning. I just don't want to have people on my property, on my door or issues in the middle of the night.

Mr. Smith: Is Whispers in the City of Middletown, Walter?

Mr. Higbie: No.

Mr. Sanchez: It's right there. It's the borderline.

Mr. Smith: What's it's closing hours?

Mr. Higbie: It's actually Town of Wallkill.

Mr. Sanchez: It's Town of Wallkill, exactly.

Mr. Smith: You know the closing hours?

Mr. Sanchez: I don't. I don't know because I don't even bother go look because I don't drink so...

Mr. Higbie: I think either 2 or 4.

Mr. Sanchez: So I mean I feel bad because he is trying to do business but I think his business is more suitable downtown, near the other restaurants and bars but not where he is close to the residential area. And then that's my concern, my concern is that I'm gonna have these people clashing maybe one bar with the other or people on my property so if he wants to do something then he has to provide some sort of security for us, some sort of plan with security measure and I mean that's my biggest concern. So like I said I feel bad for the guy but at the same time I have to think about my family, some of my good neighbors and what I can foresee is gonna happen because it's already happening with Whispers. So that's my concern.

Mr. Smith: Do you want to respond to it?

Mr. Uzuriaga: All I can say is there's gonna be security; at least two security every day and on the weekends we put three maybe because it's a small place; the place is not big just small so...

Mr. Naumchik: What do you think your hours will be?

Mr. Uzuriaga: Excuse me?

Mr. Naumchik: What will your hours be?

Mr. Uzuriaga: The hours?

Mr. Naumchik: Yes.

Mr. Uzuriaga: We do food, right in the mornings like until twelve and after twelve I will have the kitchen open and from twelve to twelve the kitchen will be open, the liquor I will sell after six, five-six and from six to 2 o'clock close.

Mr. Higbie: Yes, what time the closing be?

Mr. Uzuriaga: Two, two thirty.

Mr. Naumchik: You say two? Two AM you are saying?

Mr. Uzuriaga: Yes, I think, right.

Mr. Naumchik: How about like midnight or 1AM?

Mr. Uzuriaga: To be honest I don't know the hours it supposed to close around here. I haven't checked that yet.

Mr. Naumchik: Well here if it is approved you have to give us the hours and we would have to... we can limit them.

Mr. Uzuriaga: Oh, ok.

Mr. Smith: You'll be restricted if the Planning Board approves it.

Mr. Uzuriaga: Oh, ok.

Mr. Smith: Another thing I want you to understand is that this is an eating and drinking establishment, it cannot be any form of a nightclub, there will be no DJs, no live entertainment, no loud speaker system. Eating and drinking means eating and drinking establishment if the Board approves it. Can you live with that? Because we've had trouble with that in other parts of Town.

Mr. Uzuriaga: Yes, I was thinking about employing a DJ too so that's not allowed?

Mr. Higbie: Not allowed in this location.

Mr. Sanchez: Sorry to interrupt but just a mere fact that he's gonna have 3 security people and I'm in a security business, tell me, you got to expect problems. I just feel that I need to feel like I bought a home when I purchased this home. I left the City to come up here and have a beautiful life and so far I'm looking at 20 cars, abandoned house and a green monster behind me. That's not healthy. And it's not making me think that I made a right decision to purchase this home. Like I said it's probably perfect for downtown you know and there's plenty of space, I see a lot of property, real estate down there that he can probably use that you know? So I think it's best fit.

Mr. Smith: We still have the problem what to do with that building though.

Mr. Sanchez: Well, I mean...

Mr. Naumchik: Alex, this is allowed in the zone.

Mr. Smith: It's allowed in the zone.

Mr. Sanchez: Absolutely, let him be... you know you have to pick up the consequences that might come from this. We have to think further ahead, you know?

Mrs. Hewson: I was going to ask Mr. Uzuriaga what specifically is your security plan if things get... why did you chose three security people and what is your plan if things get out of hand. What do you anticipate will happen?

Mr. Uzuriaga: I'm just starting so I was thinking you know, the place is small so I was thinking to have three security at least to start with and see how the things are going, how many people are coming every weekend so if I get too much people I'm gonna need more security.

Mr. Smith: Do you understand when we say no DJs, no night club, no dancing either.

Mr. Uzuriaga: Oh.

Mr. Higbie: It's a restaurant that serves full bar. It's a restaurant with you know... it's like going to Ruby Tuesdays or something that has a full bar and a restaurant. There is no dancing; I mean there is... it's an eating establishment with full alcohol.

Mr. Smith: If you were thinking of something different it can't happen.

Mr. Higbie: There are places in the City of Middletown where we would permit that but not there.

Mr. Uzuriaga: Oh.

Mr. Sanchez: And I would be happy to share with him you know downtown. I can actually translate and as far as putting up a hotel if you give me like a week I can probably come up with something really good.

Mr. Smith: Walter, are there people living in that building?

Mr. Sanchez: Yes.

Mr. Welch: In the Globe? I do believe so.

Mr. Smith: Does it have a boarding house permit? Because I know at one point we shut it down.

Mr. Higbie: Yes, no it does. I mean I'm not sure about permit but there is...

Mr. Welch: I have to ask Boris.

Mr. Higbie: I mean the owner is here...

Mr. Smith: We have to check because...

Mrs. Hewson: Is the owner here?

Mr. Franzus: I'm the property manager.

Mr. Smith: Property manager?

Mr. Franzus: Yes.

Mr. Higbie: Could you state your name?

Mr. Franzus: Benjamin Franzus. I think a business can support... can actually bring up a property in a way. I feel...

Mr. Sanchez: It's gonna bring up my property?

Mr. Franzus: Let me tell you something. I'm managing it for two years. It's a hard building.

Mr. Sanchez: I just said it, it wasn't managed properly so...

Mr. Smith: Why don't you ask ... what's going on in there now, is there a boarding house there?

Mr. Franzus: Yes.

Mr. Smith: You have a permit?

Mr. Franzus: Yes.

Mr. Smith: And how many rooms are there?

Mr. Franzus: Twenty seven rooms.

Mr. Smith: Twenty seven rooms now?

Mr. Franzus: Yes.

Mr. Higbie: It just so happens that I live not too far from there. I live on Eisenhower Drive and I drive through there and the police are there quite often because of the people that are... I mean there are 27 different people living there. I mean I personally would like to see how many police calls that they are getting you know now...

Mr. Smith: I think we gonna have to take a look because now you are talking about the impact on those people that are living there as well.

Mr. Higbie: And can you imagine being open till 4AM and you have 27 people living upstairs; that's not fair to them.

Mr. Smith: Or even 2 o'clock.

Mr. Higbie: Yes. That's why we are saying 10 o'clock would be reasonable like in a restaurant with a bar.

Mr. Smith: I think we gonna have to take a look at it.

Mrs. Hewson: Sounds more like a place for a family restaurant but again the zoning is...

Mr. Sanchez: Yes, yes.

Mr. Smith: Who's your inspector, Boris?

Mr. Franzus: Yes. On the other side there's Caputo's, the business takes a good care of the property and make sure no problems, you can ask even the police department and ...

Mr. Higbie: I frequent Caputo's and he keeps it very nice, parking lot, he is a great tenant, real asset, he does his own parking lot, he puts lines on it, he plows it, he is a great asset to your business. But also I'm sure he must have concerns too because you know they are going to be loitering on his property when he closes at 12 midnight, then if you have a bar that's open till 4AM you know there's...

Mr. Franzus: About the bar, about the hours, maybe we should cut off a little bit.

Mr. Smith: I think we ought to do some research, take a look at the permits and take a look at the police calls and...

Mr. Capozella: And give the applicant a chance to kind of reconsider.

Mr. Smith: Yes, I think you want to think about it if you want to do this with no dancing, no DJ, no loudspeakers.

Mr. Higbie: Just think about it as a restaurant that has a full bar like you go to Ruby Tuesdays and they have soft music playing or something and that's it and it's a restaurant with a bar.

Mr. Sanchez: Yes, we are open to like a soft drink, could be wine and stuff but hard liquor...

Mr. Higbie: Well, I don't even think that is an issue because if you do go to like a restaurant like you know I just use Ruby Tuesdays as an example, you can get vodka or whatever...

Mr. Sanchez: But I wasn't thinking Ruby Tuesday.

Mr. Higbie: You know any kind of restaurant. You go to Nina, you go to Old Erie, whatever they might have a full bar but it's reasonable.

Mr. Franzus: It's not gonna be a first bar.

Mr. Sanchez: Exactly, it's not gonna be the first one, it's gonna be a couple of them and that's my point. And if you managed the building before and we are

talking about that same building and that building has problems then we have another problem. That means how are you going to manage this? So I'm concerned about that.

Mr. Smith: See and the Planning Board has to be concerned too because we had an issue on the other side of town with a bar that told us they are gonna be a sports bar. Well instead of sports we had raids in the middle of the night, DJs and...

Mr. Higbie: I think we should make a motion to adjourn for future consideration.

Mr. Capozella: We are going to adjourn for future consideration, this way the applicant will have time to consider exactly what's going on with this property, what kind of hours, what kind of people, everything the whole nine yards and come back.

Mr. Sisco: Elvis, are you going to be working there?

Mr. Uzuriaga: Yes, I'm going to be mostly over there on the weekends because I live in Paterson so I have...

Mr. Sisco: You live in New Jersey?

Mr. Uzuriaga: Yes.

Mr. Sisco: Ok and what's your status, manager?

Mr. Franzus: Property manager of the building, the whole building.

Mr. Higbie: Like a landlord.

Mr. Sisco: So he doesn't own it?

Mr. Higbie: No.

Mr. Sisco: Zisha owns it, right? He's gonna get a phone call from the Police Department if there's a problem there.

Mr. Franzus: I'll get a phone call.

Mr. Sisco: You get a phone call?

Mr. Higbie: Yes, he is a property manager.

Mr. Smith: They have to have a property manager. But are you contemplating a lease with him?

Mr. Franzus: Sure.

Mr. Smith: Ok.

Mr. Higbie: And you are clear on what we are talking about, what's suitable, what's the difference between ...

Mr. Franzus: Basically you want something more calm.

Mr. Capozella: Right.

Mr. Higbie: Yes, and probably earlier hours, I know you mentioned it yourself – earlier hours.

Mr. Franzus: Yes, I also don't want trouble; I'm working very hard on it. I mean you can ask the whole town there, it got improved the whole building a lot in last couple of years.

Mr. Higbie: I would agree.

Mr. Franzus: Maybe my neighbors would also agree.

Mr. Capozella: I need a motion from the Planning Board for future consideration.

On motion of Mr. Naumchik and seconded by Mr. Higbie to adjourn for future consideration the application of Elvis Uzuriaga an eating and drinking establishment located at 418 North Street.

Roll Call Ayes: Dan Higbie, Paul Thorn, Steven Sisco, Anthony Capozella, Nicole Hewson, John Naumchik.

*Mr. Capozella kept public hearing open.*

Mr. Uzuriaga: Will I get a letter?

Mr. Capozella: Do we need to send him a letter?

Mr. Smith: Why don't you stay in touch with Martina.

Mr. Sanchez: And we would get advised again, right?

Mr. Smith: No, you are not going to get a notice again.

Mr. Higbie: It's the first Wednesday of the month or...

Mr. Naumchik: You will have to watch the agenda.

Mr. Smith: And you can also call Martina.

Adjourned 8:45PM

Respectfully Submitted,

*Martina Ju, Clerk*